

COOLEY GODWARD KRONISH LLP
STEPHEN C. NEAL (170085) (nealsc@cooley.com)
WILLIAM S. FREEMAN (82002) (freemanws@cooley.com)
SHANNON M. EAGAN (212830) (seagan@cooley.com)
EINAT SANDMAN CLARKE (234776) (eclarke@cooley.com)
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Telephone: (650) 843-5000
Facsimile: (650) 857-0663

Attorneys for Defendant
Kent H. Roberts

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

KENT H. ROBERTS,

Defendant.

Case No. C 07-04580 MHP

**DECLARATION OF EINAT SANDMAN
CLARKE IN SUPPORT OF DEFENDANT
KENT ROBERTS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL PORTIONS
OF DEFENDANT'S SUPPLEMENTAL BRIEF
IN SUPPORT OF ITS MOTION TO COMPEL
AND EXHIBIT A TO THE DECLARATION OF
SHANNON M. EAGAN**

Judge: Hon. Marilyn H. Patel

I, Einat Sandman Clarke, declare as follows:

1. I am an attorney licensed to practice law in the State of California and an attorney at the law firm of Cooley Godward Kronish LLP, counsel of record for Defendant Kent Roberts ("Defendant"). The following facts are based on personal knowledge or on information and belief based upon my review of documents and sources I believe to be trustworthy.

2. Defendant's Supplemental Brief in Support of its Motion to Compel Production of Documents from Third Party Howrey LLP ("Supplemental Brief") and the Declaration of Shannon M. Eagan in Support of the Supplemental Brief ("Eagan Declaration") refer to and

1 contain documents that have been designated confidential subject to a Stipulation and Protective
 2 Order entered into in this case on November 16, 2007 (“*Roberts* Protective Order”) and a
 3 Protective Order (“*Weiss* Protective Order”) entered in the arbitration proceeding of *Kevin Weiss*
 4 *v. McAfee, Inc.*, American Arbitration Association, No. 71 166 00038 07 (“*Weiss* Arbitration”).

5 3. Attached hereto as Exhibit A is a true and correct copy of the *Roberts* Protective
 6 Order.

7 4. Attached hereto as Exhibit B is a true and correct copy of the *Weiss* Protective
 8 Order.

9 5. Defendant received the documents subject to the *Weiss* Protective Order from the
 10 government in the course of discovery, and has been informed by counsel for Kevin Weiss and
 11 McAfee, Inc. that the documents are sealable.

12 6. Defendant’s counsel has advised counsel for both parties in the *Weiss* Arbitration
 13 of the filing of Defendant’s Supplemental Brief, and that the Eagan Declaration contains
 14 documents that have been designated confidential under the *Weiss* Protective Order. Defendant’s
 15 counsel referred both parties to their obligations regarding the sealed documents under Civil
 16 Local Rule 79-5. Attached hereto as Exhibit C is a true and correct copy of the correspondence
 17 with counsel in the *Weiss* Arbitration regarding the documents that Defendant has moved to file
 18 under seal.

19 7. Exhibit A to the Eagan Declaration contains excerpts from the Deposition of
 20 Transcript of Robert E. Gooding, Jr., taken in the course of the *Weiss* Arbitration.

21 8. McAfee, through Howrey LLP (“Howrey”), previously advised Defendant’s
 22 counsel that it believes Exhibit E to the Declaration of William S. Freeman in Support of the
 23 Motion to Compel (“Freeman Declaration”) is confidential and should be filed under seal. In
 24 accordance with the *Roberts* Protective Order and Local Rule 79-5, Defendant’s counsel
 25 previously moved to file this document under seal.

26 9. On February 27, 2006, Mr. Robert Gooding from Howrey filed a Declaration in
 27 Support of Defendant’s Amended Administrative Motion to Seal, stating, in part, that Exhibit E to
 28 the Freeman Declaration contains confidential and sensitive information. *See* Declaration of

1 Robert E. Gooding in Support of Defendant's Amended Administrative Motion to File Under
2 Seal, ¶ 1.

3 10. There are portions of Defendant's Supplemental Brief that refer to information
4 designated confidential under the *Weiss* Protective Order and the *Roberts* Protective Order.
5 Pursuant to Local Rule 79-5(c) and (d), a public version of the Supplemental Brief has been
6 electronically filed with the Court.

7 I declare under penalty of perjury that the foregoing is true and correct. Executed on
8 February 29, 2008, at Palo Alto, California.

9 /s/

10 Einat Sandman Clarke

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